

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CLARENCE WASHINGTON,

Plaintiff,

v.

C. CALDWELL,

Defendant.

Case No. 11-10448

Honorable David M. Lawson

Magistrate Judge Paul J. Komives

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,  
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, DENYING  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, GRANTING PLAINTIFF'S  
MOTION TO FILE AMENDED COMPLAINT, AND DIRECTING THE UNITED  
STATES MARSHAL TO EFFECT SERVICE**

Presently before the Court is the report and recommendation issued on February 21, 2012 by Magistrate Judge Paul J. Komives pursuant to 28 U.S.C. § 636(b), recommending that this Court deny the defendant's motion for summary judgment, deny the plaintiff's motion for summary judgment, grant the plaintiff's motion for leave to file an amended complaint, and direct the Clerk of the Court to (a) docket the plaintiff's proposed first amended complaint as his first amended complaint, (b) add Raymond D. Booker and Michael Martin as defendants, and (c) prepare and forward the necessary documents to the U.S. Marshal for service of process upon the newly added defendants. Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140,

149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt. # 29] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion for summary judgment [dkt. #17] is **DENIED WITHOUT PREJUDICE**.

It is further **ORDERED** that the plaintiffs' motion for summary judgment [dkt. #13] is **DENIED WITHOUT PREJUDICE**.

It is further **ORDERED** that the plaintiff's motion for leave to file amended complaint [dkt. #27] is **GRANTED**.

It is further **ORDERED** that the Clerk of the Court is directed to docket the plaintiff's proposed first amended complaint, attached as an exhibit to his motion for leave to amend, as the plaintiff's first amended complaint.

It is further **ORDERED** that the Clerk of the Court is directed to add Raymond D. Booker and Michael Martin as defendants to this case.

It is further **ORDERED** that the Clerk of the Court is directed to process the first amended complaint and issue the summons for service by the United States Marshal Service.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: March 12, 2012

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 12, 2012.

s/Deborah R. Tofil  
DEBORAH R. TOFIL